

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1346

Citations Affected: IC 3-5-2-31.5; IC 3-6-4.2-14; IC 3-7; IC 3-11; IC 9-24-2.5.

Synopsis: Various election law matters. Conference committee report for EHB 1346. Provides that a member of the military or public safety officer may vote an absentee ballot by mail. Provides that a member of the military or public safety officer who has signed the poll list and is called from the polls before voting to respond to an emergency in the voter's capacity as a member of the military or public safety officer is entitled to return to the polls and vote upon execution of an affidavit. Restates county reimbursement procedures for attending the annual election administrators' conference. Permits, after June 30, 2010, an individual who possesses a current and valid Indiana driver's license or identification card to submit a voter registration application or update information in the individual's existing voter registration record online by use of a secure Internet web site. Establishes procedures for the bureau of motor vehicles and a county voter registration office to process an application or information submitted to the web site. Provides that an eligible applicant who submits a complete application online not later than midnight on the twenty-ninth day before an election shall be registered to vote in the election. Allows an overseas voter to transmit an absentee ballot application by electronic mail. Requires the office of the circuit court clerk (or the office of the board of elections and registration) to provide an automatic electronic mail receipt acknowledging receipt of the voter's application. Requires fees collected for application for certification of a voting system and money received in accordance with a settlement agreement relating to a voting system be deposited in the voting system technical oversight program account. Provides that the account is nonreverting. Provides that a county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2009, if the voting system meets certain requirements. Provides that the Indiana election commission may approve a voting system for use in Indiana if the voting system meets the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005. **(This conference committee report restores the bill to the version that passed the House. The conference committee report also adds the following: (1) The restatement of county reimbursement procedures for attending the annual election administrators' conference. (2) The provisions relating to online voter registration. (3) The provisions relating to electronic transmission of absentee ballot applications. (4) The provisions relating to the voting system technical oversight program account. (5) The provisions relating to approval of voting systems.)**

Effective: Upon passage; July 1, 2009.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1346 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 3-5-2-31.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2009]: **Sec. 31.5. "Member of the military or public safety**
- 5 **officer" has the meaning set forth in IC 10-14-2-5.**
- 6 SECTION 2. IC 3-6-4.2-14 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Each year in
- 8 which a general or municipal election is held, the election division
- 9 shall call a meeting of all the members of the county election boards
- 10 and the boards of registration to instruct them as to their duties under
- 11 this title and federal law (including HAVA and NVRA). The election
- 12 division may, but is not required to, call a meeting under this section
- 13 during a year in which a general or a municipal election is not held.
- 14 (b) Each circuit court clerk shall attend a meeting called by the
- 15 election division under this section.
- 16 (c) The codirectors of the election division shall set the time and
- 17 place of the instructional meeting. In years in which a primary election
- 18 is held, the election division:
- 19 (1) may conduct the meeting before the first day of the year; and
- 20 (2) shall conduct the meeting before primary election day.
- 21 The instructional meeting may not last for more than two (2) days.
- 22 (d) Each member of a county election board or board of registration

and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is entitled to receive all of the following **from the county general fund without appropriation:**

(1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting called by the election division under this section.

(2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.

(3) Reimbursement for the payment of the instructional meeting registration fee. ~~from the county general fund without appropriation.~~

(4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 3. IC 3-7-26.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 26.7. Online Voter Registration

Sec. 1. This chapter applies to an individual who:

(1) is eligible to register to vote under IC 3-7-13; and

(2) possesses a current and valid:

(A) Indiana driver's license issued under IC 9-24; or

(B) Indiana identification card for nondrivers issued under IC 9-24-16.

Sec. 2. As used in this chapter, "applicant" means an individual who submits an application as provided in this chapter.

Sec. 3. As used in this chapter, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.

Sec. 4. After June 30, 2010, an individual described in section 1 of this chapter may submit a voter registration application to a county voter registration office using the procedures set forth in this chapter.

Sec. 5. (a) The secretary of state, with the consent of the co-directors of the election division, shall establish a secure Internet web site to permit individuals described in section 1 of this chapter to submit applications under this chapter.

(b) The secure web site established under subsection (a) must allow an individual described in section 1 of this chapter to submit:

(1) an application:

(A) for registration as a first time voter in Indiana; or

(B) to change the individual's name, address, or other information set forth in the individual's existing voter registration record; and

(2) information to establish that the applicant is eligible under section 1 of this chapter to register online.

Sec. 6. (a) When an applicant submits an application described in section 5(b)(1) of this chapter by use of the secure Internet web site established under this chapter, the bureau shall compare the

information submitted by the applicant with the information maintained in the bureau's data base listing individuals who possess a current and valid Indiana:

- (1) driver's license; or
- (2) identification card for nondrivers.

(b) If the bureau confirms that the applicant possesses a current and valid:

- (1) Indiana driver's license issued under IC 9-24; or
- (2) Indiana identification card for nondrivers issued under IC 9-24-16;

the completed application and information compiled by the bureau (including the digital signature of the applicant) shall be submitted to the county voter registration office in the county in which the applicant currently resides using the computerized statewide voter registration list maintained under IC 3-7-26.3.

(c) If the bureau is unable to confirm that the applicant possesses a current and valid:

- (1) Indiana driver's license issued under IC 9-24; or
- (2) Indiana identification card for nondrivers issued under IC 9-24-16;

the bureau shall send the application submitted by the applicant and information indicating that the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card to the county voter registration office in the county shown on the application. The county voter registration office shall send a notice to the applicant that the applicant's application cannot be processed because the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card. The county voter registration office shall send the notice to the applicant at the electronic address from which the applicant submitted the application and at the mailing address provided in the application.

Sec. 7. Except as otherwise provided in this chapter, the county voter registration office shall process the application under IC 3-7.

SECTION 4. IC 3-7-32-2, AS AMENDED BY P.L.164-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A registration application must be signed:

- (1) in indelible ink or indelible pencil; or
- (2) with an electronic signature in a manner authorized under:
 - (A) IC 3-7-26.3 if submitted to a license branch under IC 3-7-14; or
 - (B) IC 3-7-26.7 (online voter registration).

SECTION 5. IC 3-7-33-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) This section applies to a voter registration application submitted online in accordance with IC 3-7-26.7.**

(b) An eligible applicant who submits a complete application online in accordance with IC 3-7-26.7 not later than midnight on the twenty-ninth day before the election shall be registered to vote in the election.

SECTION 6. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Applications may be made on application forms approved by the commission by any of the following means:

- (1) In person.
- (2) By fax transmission. or
- (3) By mail.

on application forms furnished by the county election board or approved by the commission:

(4) By electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

(1) be furnished to ~~at a central committees in committee of the~~ county ~~no later than~~

~~(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or~~

~~(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;~~

at the request of the central committee;

(2) be:

(A) mailed; or

(B) transmitted by fax; or

(C) transmitted by electronic mail with a scanned image of the application;

upon request, to a voter applying by mail, by telephone, by **electronic mail**, or by fax; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) by fax or **electronic mail, if the county election board has access to a fax machine or electronic mail.** A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an automatic electronic mail receipt acknowledging receipt of the voter's application.

SECTION 7. IC 3-11-8-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25.7. (a) This section applies only to a voter who is a member of the military or public safety officer.

(b) Notwithstanding section 25.5 of this chapter, if a voter signs the voter's name and either:

(1) writes the voter's address; or

(2) checks the "Address Unchanged" box;
 on the poll list under section 25.1 of this chapter and then leaves
 the polls without casting a ballot or after casting a provisional
 ballot, the voter may reenter the polls to cast a ballot at the election
 as provided in this section.

(c) A voter who leaves the polls to respond to an emergency in
 the voter's capacity as a member of the military or public safety
 officer must notify a precinct election officer that the voter is
 leaving the polls to respond to an emergency in the voter's capacity
 as a member of the military or public safety officer.

(d) A poll clerk or assistant poll clerk shall make a notation on
 the poll list with the voter's name indicating that the voter has left
 the polls as permitted by this section and the time the voter left the
 polls.

(e) If the voter returns to the polls, the voter shall be permitted
 to vote if the voter executes an affidavit stating all of the following:

(1) The name of the voter.

(2) That the voter is a member of the military or public safety
 officer.

(3) The military or public safety position the voter holds.

(4) That after the voter signed the poll list, but before the
 voter voted, the voter was called to respond to an emergency
 in the voter's capacity as a member of the military or public
 safety officer.

(5) A brief description of the emergency to which the voter
 responded.

(6) The time at which the voter returned to the polls.

(f) The commission shall prescribe the form of the affidavit
 required by this section.

SECTION 8. IC 3-11-10-24, AS AMENDED BY P.L.103-2005,
 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a
 voter who satisfies any of the following is entitled to vote by mail:

(1) The voter has a specific, reasonable expectation of being
 absent from the county on election day during the entire twelve
 (12) hours that the polls are open.

(2) The voter will be absent from the precinct of the voter's
 residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the
 election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's
 residence, to a health care facility, or to a hospital because of an
 illness or injury during the entire twelve (12) hours that the polls
 are open.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of
 an individual confined to a private residence because of illness or

injury during the entire twelve (12) hours that the polls are open.
 (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.

(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).

(11) The voter is a member of the military or public safety officer.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose.

The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 9. IC 3-11-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. Each application for certification of a voting system shall be accompanied by a fee of one thousand five hundred dollars (\$1,500). **All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.**

SECTION 10. IC 3-11-15-13.3, AS AMENDED BY P.L.164-2006, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) To be approved by the commission for use in Indiana, a voting system must meet:

(1) the Voting System Standards adopted by the Federal Election Commission on April 30, 2002; **or**

(2) **the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.**

(b) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, ~~2005~~; **2009**, if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before October 1, ~~2005~~; **2009**; and

(B) purchased by the county before October 1, ~~2005~~; **2009**; and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(c) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(d) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (c) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(e) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (d), the voter must be allowed to cast the voter's ballot on

that voting system, whether or not the voter is an individual with disabilities.

SECTION 11. IC 3-11-17-6, AS AMENDED BY P.L.3-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 3-11-16, and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account.

(d) The account consists of the following:

(1) All civil penalties collected under this chapter.

(2) Fees collected under IC 3-11-15-4.

(3) Contributions to the account made in accordance with a settlement agreement executed with a voting system vendor.

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 12. IC 9-24-2.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter prescribes the procedures to be followed by the commission in processing voter registration applications under 42 U.S.C. 1973gg-3, ~~and~~ IC 3-7-14, **and IC 3-7-26.7.**

SECTION 13. IC 9-24-2.5-4, AS AMENDED BY P.L.164-2006, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As required under 42 U.S.C. 1973gg-3(e)(1), the manager or designated license branch employee shall transmit a copy of the completed voter registration portion of each application for a driver's license or an identification card for nondrivers issued under this article to the county voter registration office of the county in which the individual's residential address (as indicated on the application) is located.

(b) The voter registration application shall be transmitted to the county voter registration office in an electronic format and on an expedited basis (as defined by IC 3-5-2-23.2) using the computerized list established under IC 3-7-26.3. **Except in the case of applications submitted online under IC 3-7-26.7,** the paper copy of the application shall be transmitted under subsection (a) to the county voter registration office not later than five (5) days after the application is accepted at the license branch.

SECTION 14. An emergency is declared for this act.

(Reference is to EHB 1346 as printed April 8, 2009.)

Conference Committee Report
on
Engrossed House Bill 1346

Signed by:

Representative Battles
Chairperson

Senator Lawson C

Representative Pearson

Senator Hume

House Conferees

Senate Conferees